

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

TEXAS BANKERS ASSOCIATION et al.,

Plaintiffs,

v.

**OFFICE OF THE COMPTROLLER OF
THE CURRENCY et al.,**

Defendants.

CIVIL NO. 2:24-cv-00025-Z-BR

The Hon. Matthew J. Kacsmaryk
United States District Judge

DEFENDANTS’ NOTICE OF SUPPLEMENTAL RULEMAKING

Defendants Board of Governors of the Federal Reserve System and Chairman Jerome Powell (“Federal Reserve”), Office of the Comptroller of the Currency and Acting Comptroller of the Currency Michael J. Hsu (“OCC”), and Federal Deposit Insurance Corporation and Chairman Martin J. Gruenberg (“FDIC”)—collectively, the federal banking agencies (“FBAs”)—respectfully submit this Notice of Supplemental Rulemaking. Today, March 21, 2024, the FBAs announced that they have approved a Supplemental Rule related to their 2023 final rule under the Community Reinvestment Act of 1977 (“CRA”). 89 Fed. Reg. 6574 (Feb. 1, 2024) (issued October 24, 2023) (“Final Rule”). The Final Rule is the subject of the above captioned case.

The Supplemental Rule (“Supp. Rule”) will take effect April 1, 2024. The FBAs anticipate that the Supplemental Rule will be published in the Federal Register as soon as

April 1, 2024. As of today, the Supplemental Rule is available on each FBA's website.¹ The Supplemental Rule makes the following changes:

First, the Supplemental Rule extends the applicability dates for two provisions of the Final Rule. *See* Supp. Rule at 9-15. The FBAs have extended the applicability date for requirements related to the delineation of facility-based assessment areas, 89 Fed. Reg. at 6728-35, 7114 (Section __.16), from April 1, 2024 to January 1, 2026. Likewise, the FBAs have extended the applicability date for requirements for banks' maintenance of a public file, 89 Fed. Reg. at 7082-85, 7136-37 (Section __.43), from April 1, 2024 to January 1, 2026. The Supplemental Rule explains that these extensions bring the applicability of these provisions in line with other provisions of the Final Rule applicable on January 1, 2026, and promote greater stability and certainty in transitioning to the Final Rule. As a result of these extensions, banks can continue to comply with the corresponding provisions of the legacy CRA regulations until January 1, 2026.

Second, the Supplemental Rule adopts technical amendments to the Final Rule and related regulations, including to clarify that banks may continue to use the form of notice prescribed in the FBAs' legacy CRA regulations until January 1, 2026, to fulfill CRA public notice requirements during the transition period, as well as several conforming and cross-referencing amendments for consistency. *See* Supp. Rule at 15-19.

Finally, in the Supplemental Rule the OCC corrects a discussion that appeared in the preamble to the Final Rule concerning its analysis related to the Unfunded Mandates Reform

¹ *See* <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20240321a1.pdf>, <https://www.occ.gov/news-issuances/news-releases/2024/nr-ia-2024-32a.pdf>, <https://www.fdic.gov/news/press-releases/2024/pr24018a.pdf>.

Act.² The preamble to the Final Rule identified \$91.8 million in expenditures to comply with the mandates of the Final Rule in the first 12-month period of implementation. 89 Fed. Reg. at 7106. The Supplemental Rule replaces this passage with corrected text that states that the \$91.8 million estimated figure relates to “full compliance” with the Final Rule and that banks have “longer than one year, until January 1, 2026, for most substantive provisions, and January 1, 2027, for the reporting requirements, to fully comply with the rule.” Supp. Rule at 27.

Dated: March 21, 2024

Respectfully submitted,

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² The FBAs’ Consolidated Brief in Opposition to Plaintiffs’ Motion for a Preliminary Injunction stated that the OCC intended to issue this correction. See ECF 67 at 34 n.27.

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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel and parties of record registered to receive such notices.

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